



EQUIPMENT GROUP

RECORDATION NO. 125957C Filed & Recorded

APR 22 1987 2-30 PM

RECORDATION NO. 12576B Filed & Recorded

APR 22 1987 2-30 PM

INTERSTATE COMMERCE COMMISSION

Law Department
100 North Charles Street
Baltimore, MD 21201

RECORDATION NO. 12576A Filed & Recorded

April 16, 1987

APR 22 1987 2-30 PM

Ms. Noreta McGee, Secretary
Interstate Commerce Commission
12th Street & Constitution Avenue, N.W.
Washington, DC 20423

RECORDATION NO. 7-112403 Filed & Recorded

APR 22 1987 2-30 PM

INTERSTATE COMMERCE COMMISSION

Date APR 22 1987

Fee \$ 10.00

ICC Washington, D.C.

Dear Ms. McGee:

Re: Document for Recordation
49 USC §11303

I have enclosed an original and two copies of the document described below, to be recorded pursuant to Section 11303 of Title 49 of the U.S. Code.

The document, entitled "Assignment and Assumption of Equipment Lease" dated March 10, 1987 is an assignment and should be treated as a secondary document. The primary document to which this is connected is recorded under Recordation No. 12595. We request that this assignment be cross-indexed.

The names and addresses of the parties to the secondary document are:

Assignor: Gulf Coast Grain, Inc.
Suite 103, Box 51
965 Ridge Lake Boulevard
Memphis, TN 38119
Attn: Manager-Rail Transportation

Guarantor
of Assignor: Mitsui & Co. (U.S.A.), Inc.
Suite 101, Box 81
965 Ridge Lake Boulevard
Memphis, TN 38119
Attn: Mr. Nobuo Ohashi

Assignee: CSX Transportation, Inc.
100 North Charles Street
Baltimore, MD 21201
Attn: Treasury Dept. - SC 223

A description of the equipment covered by the secondary document follows:

Ms. Noreta R. McGee
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One Hundred Forty Eight (148) 100-ton, truck gravity hopper cars, all having AAR mechanical designation C113 and having reporting marks SBD 253435-253582. (The cars previously had non-consecutive reporting marks in the GCGX 335-499 series.)

An original and two copies of the document are enclosed. After filing, please return the original and all extra copies of the document to me at the following address:

John W. Humes, Jr.
Senior General Attorney
CSX Transportation
100 North Charles Street
Baltimore, MD 21201

A check in the amount of \$10.00 for the filing fee is enclosed.

A short summary of the document follows:

An assignment between Gulf Coast Grain, Inc., Suite 103, Box 51, 965 Ridge Lake Boulevard, Memphis, TN 38119 (Assignor); Mitsui & Co. (U.S.A.), Inc., Suite 101, Box 81, 965 Ridge Lake Boulevard, Memphis, TN 38119 (Guarantor); and CSX Transportation, Inc., 100 North Charles Street, Baltimore, MD 21201 (Assignee) covering One Hundred and Forty Eight (148) - 100 ton, truck gravity hopper cars.

Very truly yours,



John W. Humes, Jr.
Sr. General Attorney

JWH/plb

Enclosures

cc: Mr. M. K. Johnson
Mr. J. E. Kruger

APR 22 1987 2:30 PM

INTERSTATE COMMERCE COMMISSION

INDEMNITY AGREEMENT dated as of November 1, 1980
between GULF COAST GRAIN, INC. (the "Lessee")
and GENERAL ELECTRIC CREDIT CORPORATION
(the "Trustor").

RECITALS

A. The Trustor is a party to a trust (the "Trust") under the Trust Agreement dated as of November 1, 1980 (the "Trust Agreement"), between the Trustor and First Security Bank of Utah, N.A., as trustee (the "Trustee"), providing, among other things, for the authorization and direction of the Trustee, solely on behalf of the Trust, to agree to purchase 150 100-ton covered hopper cars (individually a "Unit" and collectively the "Units") manufactured by Trinity Industries, Inc. (the "Manufacturer"), pursuant to the Purchase Order Assignment dated as of November 1, 1980 (the "Purchase Order Assignment"), between the Trustee and the Lessee, and for the lease of the Units by the Trustee, as lessor, to the Lessee, as lessee, pursuant to the Equipment Lease dated as of November 1, 1980 (the "Lease"), between the Trustee and the Lessee.

B. The Trustee and Mitsui & Co. (U.S.A.), Inc. (the "Guarantor") have entered into a Guaranty Agreement (the "Guaranty Agreement"), whereby the Guarantor agrees to guarantee certain obligations of the Lessee.

C. The Trustor has agreed in the Trust Agreement to advance certain funds to the Trustee to permit the Trustee to pay a portion of the Purchase Price (as defined in Sections 1 and 2 of the Participation Agreement dated as of November 1, 1980 (the "Participation Agreement"), among the Lessee, the Guarantor, The Connecticut Bank and Trust Company, a Connecticut banking corporation, as security trustee (the "Security Trustee"), the Trustor, the Trustee, and Connecticut General Life Insurance Company, as note purchaser ("Note Purchaser")) of the Units equal to 41.0531% thereof.

D. The Trustee will acquire the balance of the Purchase Price of the Units from the Note Purchaser, pursuant to the terms and provisions of the Participation Agreement.

E. Terms defined in the documents referred to above are used herein as so defined.

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[Faint handwritten notes at the bottom of the page]

(b) the Trustor, as the beneficial owner of the Units, will be entitled to such deductions, credits and other benefits as are provided by the Internal Revenue Code of 1954, as amended, as in effect on the date hereof (the "Code") and state and local taxing statutes as in effect on the date hereof to an owner of property, including, without limitation, (i) deductions for depreciation with respect to the basis of the Units under Section 167(g) of the Code, which basis shall be at least equal to the Purchase Price of the Units and such other transaction expenses as are properly includible in the basis of the Units using the half-year convention authorized by Treas. Reg. § 1.167(a)-11(c)(2)(iii) and computed on the basis of the double-declining balance method of depreciation authorized by Section 167(b)(2) of the Code, switching first to the sum-of-the-years-digits method of depreciation authorized by Section 167(b)(3) of the Code and then to the straight line method of depreciation authorized by Section 167(b)(1) of the Code when most beneficial to the Trustor without obtaining the prior consent of the Commissioner of Internal Revenue, over an asset depreciation period of 12 years, to a net salvage value of zero after the reduction permitted by Section 167(f)(1) of the Code (the "ADR Deductions"), (ii) deductions for interest with respect to the Notes (as defined in Section 2.2(a) of the Participation Agreement) as authorized by Section 163 of the Code (the "Interest Deductions") and (iii) the investment credit in the year in which the Units become subject to the Lease pursuant to Section 38 of the Code for "new section 38 property" equal to at least 10% of the basis of the Units under Section 167(g) of the Code, which basis shall be at least equal to the Purchase Price

of the Units and such other transaction expenses as are properly includible in the basis of the Units (the "Investment Credit"); and

(c) all amounts includible in the gross income of the Trustor with respect to the Units and all deductions and credits allowable to the Trustor with respect to the Units (including the Interest Deductions) will be treated as derived from, or allocable to, sources within the United States.

SECTION 2. No Inconsistent Action. The Lessee agrees that neither it nor any corporation controlled by it, in control of it, or under common control with it, directly or indirectly, including for purposes of this Agreement the Guarantor and any member of the affiliated group within the meaning of Section 1504 of the Code of which the Guarantor is or may become a member, will at any time take any action or file any returns or other documents inconsistent with the assumptions set forth in Section 1, and that the Lessee and any corporation controlled by it, in control of it or under common control with it, directly or indirectly, including for purposes of this Agreement the Guarantor and any member of the affiliated group within the meaning of Section 1504 of the Code of which the Guarantor is or may become a member, will file such returns, take such actions and execute such documents as may be reasonable and necessary to facilitate accomplishment of the intent thereof.

SECTION 3. Records and Statements. The Lessee agrees to maintain sufficient accounting records to verify the amount of income, deductions, and credits in respect of each Unit allocable to sources within and without the United States. The Lessee agrees to give to the Trustor, within 30 days after request therefor, written notice describing the amount of income, deductions, and credits allocable to sources within and without the United States and specifying in reasonable detail the basis on which such allocations were made, if such information is required in connection with the preparation of the Trustor's domestic state and local tax returns or in connection with an audit by the Internal Revenue Service of the tax returns of the Trustor. In addition, within 90 days after the end of each calendar year, beginning with the year 1981, the Lessee agrees to furnish to the Trustor a statement to the effect that none of the Units has been used outside the United States during the preceding calendar year, or, if any of the Units was used outside the United States during such year, that the amount of such usage was minimal and did not impair the ability of the Trustor to treat, for Federal income tax

purposes, all income and deductions relating to all uses of the Units subject to the Lease during such year as being derived from, or allocable to, sources within the United States, which statement shall be signed by the chief financial officer of the Lessee.

SECTION 4. Representations and Warranties of Lessee.

(1) The Lessee represents and warrants that

(a) when delivered and accepted under the Lease, the Units will constitute "new section 38 property" within the meaning of Section 48(b) of the Code;

(b) when delivered and accepted under the Lease, the Units will not have been used by any person so as to preclude "the original use of such property" within the meaning of Sections 48(b) and 167(c)(2) of the Code from commencing with the Trustor;

(c) when delivered and accepted under the Lease, no other person will have claimed the Investment Credit, the ADR Deductions or the Interest Deductions with respect thereto;

(d) when delivered and accepted under the Lease, the Units will require no improvements, modifications, or additions (other than ancillary items of removable equipment of a kind that customarily are selected and furnished by purchasers or lessees of 100-ton covered hopper cars) in order to be rendered complete for their intended use by the Lessee;

(e) the Lessee will not at any time during the term of the Lease or any renewal periods use or fail to use (including any use or failure to use by a sub-lessee or assignee) any Unit in such a manner as to disqualify such Unit as "section 38 property" within the meaning of Section 48(a) of the Code;

(f) at all times during the original term of the Lease and renewal periods, the Trustor will be entitled to treat, for Federal income tax purposes, each item of income, deduction and credit relating to all uses of the Units subject to the Lease as being derived from, or allocable to, sources within the United States;

(g) at the time the Units are delivered and accepted under the Lease and related documents, the Trustor shall be unconditionally obligated to pay the Manufacturer for all costs incurred with respect to the Units, and neither the Lessee, any affiliate thereof nor any other person will have made any investment in the Units in violation of Revenue Procedure 75-21, 1975-1 C.B. 715, as modified in Revenue Procedure 79-48, 1979-2 C.B. 529.

(2) In the opinion of the Lessee, there is a reasonable basis for the opinion of an independent appraiser, provided in accordance with Paragraph 4.3 of the Participation Agreement, that each Unit will have an estimated useful life of not less than 26 years and residual fair market value 20 years after the Term Lease Commencement Date equal to at least twenty percent of the cost of such Unit, without including in such value any increase or decrease for inflation or deflation, and each Unit will be useful and usable by a party other than the Lessee at the end of the original term and capable of continued leasing and transfer to another party at that time and it will be commercially feasible to do so.

SECTION 5. Indemnity for Acts or Misrepresentations of Lessee. (a) If by reason of any act of commission or omission (including any act required or permitted to be taken pursuant to the Lease except a casualty occurrence as described in Section 11 of the Lease, provided that the Lessee has made all payments with respect thereto that are required to be made pursuant to such Section 11), misrepresentation, breach of any agreement, covenant, or warranty contained herein or in the Lease, the Participation Agreement, or any exhibit thereto, on the part of the Lessee, any party referred to in Section 2, or any sublessee or assignee of the Lessee or any user of any Unit, the Trustor shall lose the right to claim, shall not claim (as the result of a good-faith determination based upon the advice of tax counsel of General Electric Company (hereinafter referred to as the "Tax Counsel") that such claim is not allowable), shall suffer a disallowance of, or shall be required to recapture all or any portion of the Investment Credit, the ADR Deductions, or the Interest Deductions (any such event hereinafter referred to as a "Loss"), then the Lessee shall pay to the Trustor as an indemnity, on the next succeeding rental payment date (as provided for in the Lease), and on each rental payment date thereafter during the remaining term of the Lease, such amount or amounts as

shall, in the reasonable opinion of the Trustor, cause the Trustor's after-tax economic yields and cash flows (computed on the same assumptions, including tax rates, as were utilized by the Trustor in originally evaluating this transaction) to equal the after-tax economic yields and cash flows (such economic yields and cash flows hereinafter called the "Net Economic Return") that would have been realized by the Trustor if such Loss had not occurred.

(b) In the event that the Trustor and the Lessee are unable to agree on the indemnity amount required to restore the Trustor's Net Economic Return, as aforesaid, then the Lessee shall pay to the Trustor, in lieu of the amount provided for in Paragraph (a) of this Section 5, such amount, or, from time to time, such amounts as, after deduction of all taxes required to be paid by the Trustor in respect of the receipt of such amounts under the laws of any Federal, state, local or foreign government or taxing authority, shall be equal to the sum of the aggregate additional Federal, state, local or foreign income taxes payable by the Trustor from time to time as a result of any such Loss plus the amount of any interest, penalties or additions to tax payable as a result of any such Loss. If, as a result of a Loss, the aggregate Federal, state, local or foreign income taxes paid by the Trustor for any taxable year shall be less than the amount of such taxes which would have been payable by the Trustor had no such Loss occurred, then the Trustor shall pay the Lessee the amount of such difference in taxes, plus any additional tax benefits realized by the Trustor as the result of such payment; provided, however, that the Trustor shall not be obligated to make any payment pursuant to this sentence to the extent that the amount of such payment would exceed (x) the amount of all prior payments by the Lessee to the Trustor pursuant to this Paragraph in respect of a Loss, less (y) the amount of all prior payments by the Trustor to the Lessee hereunder. The amount payable to the Trustor pursuant to this Paragraph shall be paid within 30 days after receipt of a written demand therefor from the Trustor accompanied by a written statement describing in reasonable detail such Loss and the computation of the amount so payable (but not prior to the earlier of (i) the filing of a return or the acceptance of an audit report in which such Loss is reflected and (ii) the payment of the additional income tax that becomes due as the result of the Loss. Any payment due to the Lessee from the Trustor pursuant to this Paragraph shall be paid within 30 days after the Trustor realizes any such savings in its income taxes or additional tax benefits, as the case may be.

SECTION 6. Change of Law. If there is any amendment to or change in the Code or any Regulation thereunder or any published Revenue Ruling or analogous state tax regulations or other change in interpretation by the Treasury or the Internal Revenue Service or any state taxing authority, as the case may be, which is enacted, adopted or proposed prior to the acceptance of the last Unit to be accepted pursuant to the Participation Agreement and the Lease, and if such amendment or change affects the Investment Credit allowable with respect to any Unit or the ADR Deductions allowable with respect to any Unit or the privilege of the Trustor to file consolidated Federal, state and local income tax returns with corporations affiliated with it, or if such amendment or change affects the Federal or state rate of tax on taxable income of corporations, then the amounts of rentals and the Casualty Values under the Lease will be appropriately adjusted upward or downward by such amount or amounts as shall, in the reasonable opinion of the Trustor, cause the Trustor's Net Economic Return to equal the Net Economic Return that would have been realized by the Trustor if such amendment or change had not occurred; provided, however, that the rentals and Casualty Values, as so adjusted, shall not be less than amounts which are sufficient to satisfy the obligations of the Trustee under the Purchase Order Assignment, notwithstanding any limitation of liability contained therein.

SECTION 7. Foreign Tax Credit Indemnity. If any item of income or deduction with respect to the Units shall not be treated as derived from, or allocable to, sources within the United States for a given taxable year (any such event hereinafter referred to as a "Foreign Loss"), then the Lessee shall pay to the Trustor as an indemnity, on the next succeeding rental payment date (as defined in the Lease) after written notice to the Lessee by the Trustor, such amount which, after deduction of all taxes required to be paid by the Trustor in respect of the receipt of such amounts under the laws of any Federal, state or local government or taxing authority of the United States, shall equal the sum of: 1.) the excess of (x) the foreign tax credits which the Trustor would have been entitled to for such year had no such Foreign Loss occurred over (y) the foreign tax credit to which the Trustor was limited as a result of such Foreign Loss; and 2.) the amount of any interest, penalties or additions to tax payable as a result of such Foreign Loss. The amount payable to the Trustor pursuant to this Section 7 shall be paid within 30 days after receipt of the written

demand therefor from the Trustor (but not prior to payment by the Trustor of the additional income tax which becomes due as a result of the Foreign Loss) accompanied by a written statement describing in reasonable detail such Foreign Loss and the computation of the amount so payable.

SECTION 8. Capital Expenditures. (a) If at any time the Trustor is required by the Internal Revenue Service or any state, local or foreign taxing authority to include in its gross income an amount in respect of any replacement, improvement, modification, or addition made to a Unit or as the result of any action required or permitted to be taken by the Lessee pursuant to the Lease or otherwise ("Capital Expenditures") then the Lessee shall pay to the Trustor, as an indemnity, such amount or amounts which, after deduction of all taxes required to be paid by the Trustor in respect of the receipt of such amount or amounts under the laws of any Federal, state or local government or taxing authority, shall be equal to the sum of the aggregate additional Federal, state or local income taxes payable by the Trustor from time to time as a result of such Capital Expenditures plus the amount of any interest, penalties or additions to tax payable as a result of any such Capital Expenditure. If as a result of any such Capital Expenditure the aggregate Federal, state or local income taxes paid by the Trustor for any taxable year shall be less than the amount of such taxes which would have been payable by the Trustor had no such Capital Expenditure been made, then the Trustor shall pay the Lessee the amount of such savings in taxes plus any additional tax benefits realized by the Trustor as the result of such payment; provided, however, that the Trustor shall not be obligated to make any payment pursuant to this sentence to the extent that the amount of such payment would exceed (x) the amount of all prior payments by the Lessee to the Trustor pursuant to this Section 8 in respect of any Capital Expenditure less (y) the amount of all prior payments by the Trustor to the Lessee hereunder. The amount payable to the Trustor pursuant to this Section 8 shall be paid within 30 days after receipt of the written demand therefor from the Trustor (but not prior to payment by the Trustor of the additional income tax which becomes due as a result of the said inclusion) accompanied by a written statement describing in reasonable detail such inclusion and the computation of the amount so payable. Any payment due to the Lessee from the Trustor pursuant to this Section 8 shall be paid within 30 days after the Trustor realizes any such savings in its income taxes or additional tax benefits, as

the case may be.

(b) The Lessee agrees to give the Trustor, within 30 days after request therefor, written notice describing in reasonable detail Capital Expenditures made and specifying the cost thereof with respect to each Unit if such information is required in connection with an audit by the Internal Revenue Service of the tax returns of the Trustor.

SECTION 9. Contest Provisions. (a) If the Internal Revenue Service shall propose an adjustment in the Federal income taxes of the Trustor for which the Lessee would be required to indemnify the Trustor pursuant to this Indemnity Agreement and if the amount of the indemnity which the Lessee would be required to pay would exceed \$100,000, then, if requested by the Lessee in a timely written request, the Trustor shall request an opinion of Tax Counsel as to whether the basis in law and in fact in favor of allowance of the item proposed to be adjusted outweighs the basis in law and in fact to the contrary. If the opinion is to that effect and if the Lessee promptly requests the Trustor to do so, the Trustor shall contest the proposed adjustment; provided, however, that Tax Counsel shall determine in its sole discretion the nature of all action to be taken to contest such proposed adjustment including (i) whether any action to contest such proposed adjustment shall initially be by way of judicial or administrative proceedings, or both, (ii) whether any such proposed adjustment shall be contested by resisting payment thereof or by paying the same and seeking a refund thereof, and (iii) if the Trustor shall undertake judicial action with respect to such proposed adjustment, the court or other judicial body before which such action shall be commenced. The Trustor shall have full control over any contest pursuant to this Section 9 and shall not be obligated to appeal an adverse determination by any court. At any time, whether before or after commencing to take the action set forth in this Section 9, the Trustor may decline to take any such action with respect to all or any portion of a proposed adjustment by notifying the Lessee in writing that the Lessee is relieved of its obligation to indemnify the Trustor with respect to the adjustment or such portion, as the case may be.

(b) The Trustor shall not be required to take any action pursuant to this Section 9 unless and until the Lessee shall have agreed to indemnify the Trustor in a manner reasonably satisfactory to the Trustor for any liability or loss which the Trustor may incur as a result of contesting

the validity of any proposed adjustment and shall have agreed to pay to the Trustor on demand all costs and expenses which the Trustor may incur in connection with contesting such proposed adjustment (including fees and disbursements of counsel). If the Trustor determines to contest any adjustment by paying the additional tax and suing for a refund, the Lessee shall pay to the Trustor an amount equal to the sum on an after-tax basis of any tax, interest, penalties and additions to tax which are required to be paid. Upon receipt by the Trustor of a refund of any amounts paid by it based on the adjustment in respect of which amounts it shall have previously been paid an equivalent amount by the Lessee (including, if any, related refunds of interest, penalties or additions to tax) the Trustor shall promptly pay to the Lessee the amount of such refund together with any interest received by it on such amount. Where so obligated, the Lessee shall pay to the Trustor the amount specified in Section 9 promptly after the Trustor has taken all the action that it has agreed in this Section 9 to take.

SECTION 10. Definitions. For purposes of this Indemnity Agreement, the term "Trustor" shall include any affiliated group within the meaning of Section 1504 of the Code, of which the Trustor is, or may become, a member if consolidated, joint or combined returns are filed for such affiliated group for Federal, state or local income tax purposes.

SECTION 11. No Setoff. No payment required to be made by the Lessee pursuant to this Agreement shall be subject to any right of setoff, counterclaim, defense, abatement, suspension, deferment or reduction, and, except in accordance with the express terms hereof, the Lessee shall have no right to terminate this Agreement or to be released, relieved or discharged from any obligation or liability under this Agreement for any reason whatsoever.

SECTION 12. Survival of Agreement. The obligations and liabilities of the Lessee arising under this Indemnity Agreement shall continue in full force and effect, notwithstanding the expiration or other termination of the Lease or this Agreement, until all such obligations have been met and such liabilities have been paid in full. The obligations and liabilities of the Lessee arising under this Agreement are expressly made for the benefit of, and shall be enforceable by the Trustor and its successors, assigns and agents.

SECTION 13. Payments. Any payments made pursuant to this Indemnity Agreement shall be made directly to the Trustor, and no such payment shall constitute part of the corpus of the Trust, or, as the case may be, to the Lessee. Such payments shall be made by wire transfer of immediately available funds to such bank and/or account in the continental United States as specified by the receiving party in written directions to the paying party and if no such direction shall have been given, by check of the paying party payable to the order of the receiving party and mailed to the receiving party by certified mail, postage prepaid at its address as set forth in the Participation Agreement.

SECTION 14. Late Payments. Any late payment by any party hereto of any of its obligations under this Indemnity Agreement shall result in the obligation on the part of such party promptly to pay an amount equal to interest at the rate per annum equal to 1% in excess of the Prime Rate compounded quarterly on the overdue payment. Prime Rate as used herein shall mean the rate per annum which Manufacturers Hanover Trust Company, New York, New York, charges for 90-day unsecured loans to large corporate borrowers of the highest credit standing from time to time in effect for the period such interest is payable.

SECTION 15. Governing Law. This Indemnity Agreement shall be governed by and construed in accordance with the laws of the State of New York.

SECTION 16. Counterparts. This Indemnity Agreement may be simultaneously executed in any number of counterparts, each of which so executed shall be deemed to be an original, and such counterparts together shall constitute and be one and the same instrument.

IN WITNESS WHEREOF, the Lessee and the Trustor have caused this instrument to be duly executed, all as of the day and year first above written.

GULF COAST GRAIN, INC.

By /S/ W. G. Gore

GENERAL ELECTRIC CREDIT
CORPORATION

By /S/ M. J. Kelly